

**MEMORIAL**  
OF THE  
**PRESIDENT AND DIRECTORS**  
OF THE  
**CHESAPEAKE AND OHIO CANAL COMPANY,**  
RELATIVE TO

*Differences between that Company and the Baltimore and Ohio Railroad Company, as to precedence, in the selection and location of the route, at certain points.*

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FEBRUARY 26, 1829.—Referred to the Committee on Roads and Canals, and ordered to be printed.

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*To the Senate and House of Representatives, of the United States of America, in Congress assembled.*

The memorial of the President and Directors of the Chesapeake and Ohio Canal Company,

**MOST RESPECTFULLY REPRESENTS:**

That they have heard with great concern, that the enterprise confided to their care by the stockholders of the Company, among whom they have the honor to comprehend the United States, has been represented to be, in part, at least, impracticable.

Your memorialists have been informed, and believe, that those representations refer to the portion of their undertaking which is expected to connect the Potomac, at or above Cumberland, with the navigable waters of the west, at Pittsburg; and they are apprised of the assertion, that there will not be water to supply that part of the canal, and that the expense of its application, by a tunnel through the Alleghany, has been exaggerated, and represented to be the only means of accomplishing the great end which they are empowered to pursue.

In reply to these objections, your memorialists beg leave to refer to the message of the President of the United States, of the 7th of December, 1826, to both Houses of Congress, transmitting the report of the United States' Board of Internal Improvement, concerning the practicability, the plan, and the route of the Chesapeake and Ohio Canal; to which your memorialists now add the accompanying letter from the chief of that Board.

Whilst they totally disclaim any unfriendly feeling towards the public-spirited enterprise of the Baltimore and Ohio Railroad Company, and

equally disavow any pretension, on their part, to intercept the bounty of Congress, towards any object whatever—they cannot permit their silence, under existing circumstances, to imply an abandonment, on their part, of the rights of the Chesapeake and Ohio Canal Company; and they beg leave to ask of you, therefore, an examination of the second section of the act of the State of Maryland, passed at the December session of 1826, of her General Assembly, entitled, “An act to amend the ‘Act incorporating the Chesapeake and Ohio Canal Company;’” which having been passed, in conformity with the fourth section of an act of the Legislature of Pennsylvania, of the 9th of February, 1826, entitled “An act incorporating the Chesapeake and Ohio Canal Company,” and having been subsequently confirmed, by correspondent acts of the General Assembly of Virginia, and of the Congress of the United States, bearing date, respectively, the 26th of February, 1827, and 23d of May, 1828, of all which acts, complete copies or extracts therefrom are hereto annexed, because part of the charter of the Chesapeake and Ohio Canal Company, and granted to them, authority “to terminate the eastern section of the said canal at or near the town of Cumberland, on the river Potomac, and to extend the western section thereof in any direction that may be deemed expedient, by any other route, as well as that prescribed in the act aforesaid, (being an act incorporating the Chesapeake and Ohio Canal Company,) towards Pittsburg; and in extending the same in any direction across the dividing ridge which separates the eastern and western waters, to substitute for a tunnel and numerous locks, on such part of the route, inclined planes and railways, or *any other artificial communication, or roads.*”

It is evident, therefore, from the terms of this authority, and especially those of the prior act of Pennsylvania, that the Chesapeake and Ohio Canal Company have full power, where an adequate supply of water to feed a canal between Cumberland and the navigable waters of the west may not exist, to construct a railway; and, consequently, a part of the very railway which the Congress of the United States are invited to aid in constructing, with the funds of the nation, for the benefit of another company.

If aid for this object has not been solicited of your honorable body, under the authority of the Chesapeake and Ohio Canal Company, by your memorialists, it has been because, as yet, they have not been able to decide, definitively, on the expediency of constructing a continued canal, or a railway, on the “middle section” (to use a denomination of the United States’ Engineers,) of the Chesapeake and Ohio Canal; and because they have been desirous to furnish, by the actual construction of part of the eastern section of the canal, conclusive evidence that the whole can be made on an enlarged plan, for a sum much less than that at which its cost was estimated, prior to the subscription to its stock by Congress, of one million of dollars. By the next winter this evidence will have been supplied, through the operation of the contracts already formed, for the completion of forty-eight miles of the canal, being all that part of the eastern section which has been left open to execution, by the unexpected interference of the Baltimore and Ohio Rail Road Company, with the route laid down by the United States’ Board of Internal Improvement, for that section, and approved by an examination, by order of the general government, of the same route, by two eminent Civil Engineers of New York, Messrs. James Geddes, and Nathan S. Roberts.

Your memorialists are aware that other routes may be designated for a railway from Cumberland to the river Ohio, at Pittsburg, besides that which

may be chosen, after a thorough examination of the intermediate ground, by the Chesapeake and Ohio Canal Company; but your memorialists are not allowed, by any reference to experience, to confide in the probable selection, by the Baltimore and Ohio Railroad Company, of a route, for their road, which shall not interfere with the rights of this company, which are "to extend a branch canal up the Potomac, from Cumberland, to the coal banks on that river, and to make a railway or canal from Cumberland towards Pittsburg, on any route they may please to select." It is from a sense of duty, and a sense of duty only, that your memorialists are obliged to say, that no interference, by that company, with either of those rights, could be more injurious than the steps which they have already taken, to arrest the progress of the Chesapeake and Ohio Canal, on its twice designated route along the valley of the Potomac river.

Your memorialists did not interfere, in their individual capacity, when it was publicly announced that certain public-spirited individuals in Maryland sought a charter of the States of Maryland and Virginia, to construct a railway from Baltimore to the Ohio, because no interference with the charter already obtained, by much and long-continued labor, on the part of the "Chesapeake and Ohio Canal Convention," was apprehended. The gentlemen who asked a charter for a railway, disapproving of the circuitous route of the canal, directed the public attention to a wholly distinct path for their enterprize. While their contemplated railway preserved this character, the members of the Chesapeake and Ohio Canal Convention, and the Central Committee of that Convention, specially charged to watch over its interests, not only did not interfere with the wishes of the friends of the railway, but, as is known to your memorialists, favored their application for a charter, both in Maryland and Virginia.

The accompanying extracts, from the pamphlet first announcing the intended application for this charter, illustrate and confirm the truth of this statement, and have an important bearing on the apprehensions of your memorialists.

If reference be had to the interest of the United States, in the stock of the Chesapeake and Ohio Canal Company, and to the annexed terms of the charters of both companies, no reason will be found, in their relative privileges, to prefer the claims of that which now seeks the aid of Congress.

The Congress of the United States, having already authorized an investiture of one million of dollars in the Chesapeake and Ohio Canal, it is an act of duty, on the part of your memorialists, to the United States, as well as to the other holders of stock in the Chesapeake and Ohio Canal Company, however reluctantly performed, in consequence of the desire of the memorialists to preserve that harmony which they have hitherto maintained between all the legitimate objects of internal improvement, and that confided to their care, to ask of the Congress of the United States, not to express, in any mode, an opinion upon the relative legal pretensions of the two companies.

By order, and in behalf of the Board.

C. F. MERCER,

*President of the Chesapeake and Ohio Canal Company.*

The President and Directors of the Chesapeake and Ohio Canal Company in meeting, February 21st, 1829 —

PRESENT:

CHARLES F. MERCER, *President.*

|                    |                     |
|--------------------|---------------------|
| PHINEAS JANNEY,    | } <i>Directors.</i> |
| PETER LENOX,       |                     |
| FREDERICK MAY, and |                     |
| WALTER SMITH,      |                     |

*Resolved, unanimously,* That the memorial to the Congress of the United States, this day adopted, be signed and presented by the President, in behalf of this Board.

JOHN P. INGLE,

*Clerk Ches. and Ohio Canal Co.*

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*Extracts from the Report of the Committee, made and included in the "Proceedings of sundry citizens of Baltimore, convened for the purpose of devising the most effectual means of improving the intercourse between that city and the Western States."—Report made in February, 1827; pages 30 and 31.*

In conclusion, the Committee beg leave to refer to the annexed tables, numbered from 1 to 7, in which they have arranged, under a condensed form, some of the more important facts and statements embraced in this report. The Committee have also, in these tables, contrasted the advantages which, in their opinion, would be likely to accrue to the city of Baltimore, from connecting her trade with the Western States, by intersecting the contemplated Chesapeake and Ohio Canal, within the District of Columbia, and by a direct railroad from Baltimore to some eligible point on the Ohio river.

Names of the gentlemen composing the Committee who made this report:

PHILIP E. THOMAS,  
BENJ. C. HOWARD,  
GEORGE BROWN,  
TALBOT JONES,

JOSEPH W. PATTERSON,  
EVAN THOMAS, and  
JOHN V. L. McMAHON.

After the report of the Committee had been read and approved, it was, among other things,

*Resolved,* That a Committee, consisting of twenty-five members, be appointed by the chairman of this meeting, whose duty it shall be to prefer an application to the Legislature of Maryland for an act of incorporation.



The following Committee was then appointed to carry into effect the object of the meeting, to wit:

CHARLES CARROLL,  
*of Carrollton,*  
 WILLIAM PATTERSON,  
 ISAAC M'KIM,  
 ROBERT OLIVER,  
 CHARLES RIDGLEY,  
*of Hampton,*  
 THOMAS TENANT,  
 ALEXANDER BROWN,  
 JOHN M'KIM, JUN.,  
 TALBOT JONES,  
 JAMES WILSON,  
 THOMAS ELLICOTT,  
 GEORGE HOFFMAN,

PHILIP E. THOMAS,  
 WILLIAM STEUART,  
 WILLIAM LORMAN,  
 GEORGE WARNER,  
 BENJ. C. HOWARD,  
 SOLOMON ETTING,  
 W. W. TAYLOR,  
 ALEXANDER FRIDGE,  
 JAMES L. HAWKINS,  
 JOHN B. MORRIS,  
 LUKE TIERNAN,  
 ALEXANDER M'DONALD, and  
 SOLOMON BIRKHEAD.

The following gentlemen compose the Board of President and Directors of the Baltimore and Ohio Rail Road Company:

PHILIP E. THOMAS,  
*President,*  
 CHARLES CARROLL,  
*of Carrollton,*  
 WILLIAM PATTERSON,  
 ROBERT OLIVER,  
 ALEXANDER BROWN,  
 GEORGE HOFFMAN,

ALEXANDER FRIDGE,  
 WILLIAM LORMAN,  
 JOHN B. MORRIS,  
 ISAAC M'KIM,  
 PATRICK MACAULAY,  
 WILLIAM STEUART,  
 SOLOMON ETTING,  
 TALBOT JONES.

*Appendix to the preceding Report.*

TABLE No. 1.

Estimated difference in the distance between connecting the city of Baltimore with the western trade, by a continuous canal, intersecting the eastern termination of the proposed Chesapeake and Ohio Canal, within the District of Columbia, and of connecting Baltimore with this trade by a rail-way, direct from that city to some suitable point on the Ohio river.

|   | <i>Miles.</i> |
|---|---------------|
| The United States' Engineers report the length of the Chesapeake and Ohio Canal, from the City of Washington to Pittsburg, on the Ohio river, to be - - - | 341½          |
| Estimated length of a canal from Baltimore, to intersect the Chesapeake and Ohio Canal at Washington, - - -   | 48½           |
| Whole distance of a canal, by this route, from Baltimore to Pittsburg, - - - - -  | 390           |
| Estimated distance of a railroad from the city of Baltimore to Wheeling, or some other suitable point, on the Ohio river, - - - - -                       | 250           |
| Distance saved by a railroad, - - - - -   | 140           |

TABLE No. 2.

Comparative cost of constructing a canal communication, between the city of Baltimore and the Ohio river, by the proposed route of the Chesapeake and Ohio Canal, and by the proposed direct rail-road communication between Baltimore and that river.

The United States' Engineers estimate the cost of the proposed canal from Washington to Pittsburg, to be \$22,375,427 00; but we will suppose it could be made for one half of this sum, or, - - - - \$ 11,000,000 00

To which should be added, the cost of constructing a continuous canal from the city of Baltimore to the eastern termination of the Chesapeake and Ohio Canal, at Washington, that being the only point at which we can intersect it, - - - - 1,000,000 00

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\$ 12,000,000 00

The highest estimated cost of a rail-road from Baltimore to the Ohio river, calculating the same to cost \$20,000 per mile, (and this is believed to be a very high estimate,) would be - - - - 5,000,000 00

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Amount of capital saved in favor of the rail-road, - \$ 7,000,000 00

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TABLE No. 3.

Estimated difference of expense on transportation, for tolls only, by the proposed canals from Baltimore, through the District of Columbia, to Pittsburg, and by a *direct railroad route from Baltimore* to some point on the Ohio river.

The United States' engineers estimate the cost of transportation, by the proposed Chesapeake and Ohio Canal, at the rate of one cent and a half, for each ton, per mile. Taking the whole distance then from Baltimore to Pittsburg, as is shown in Table No. 1, to be 390 miles, the tolls for conveying a ton of freight from Baltimore the whole distance along this canal, would be - \$ 5 85

Tolls for carrying the same freight along the proposed rail road, at the same rate per mile, the distance being 250 miles, would be - - - - 3 75

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Amount of freight saved per ton, in favor of a railroad, at the same charge for tolls, would be - \$ 2 10

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TABLE No. 5.

Estimate of profits to the holders of stock in the proposed Baltimore and Ohio Railroad.

Expense of constructing the proposed road being estimated at \$20,000 per mile, and the distance being assumed to be 250 miles, would make the whole cost - \$5,000,000 00

TABLE No. 6.

Estimated difference of the time it would take for conveying freight from Baltimore to Pittsburg, by the proposed Chesapeake and Ohio Canal, between those places, through the District of Columbia, and by a direct railroad from Baltimore to some point on the Ohio river.

|   | <i>Hours.</i> |
|---|---------------|
| The United States' engineers estimate the time it will take to travel with loaded boats from Washington to Pittsburg, to be - - - - -   | 188           |
| The distance between these points being 341 miles, we have only to add the same rate of travelling for the additional distance from Baltimore to Washington, say 48½ miles, and the additional time will be - - - | 26½           |

|  |      |
|--|------|
| Time employed in passing on the proposed canals from Baltimore to Pittsburg, - - - | 214½ |
|--|------|

There is abundant evidence to prove, from authentic documents published, that the rate of travelling upon rail roads, with the locomotive engines, in England, (and this has been sufficiently shown to be the cheapest means,) is, with heavy loaded wagons, from four to six miles, and even eight miles per hour. Assuming, however, the slowest rate, and the passage will be made from Baltimore to the Ohio river, say 250 miles, at the rate of four miles per hour, is - - - - -

62½

|   |            |
|---|------------|
| Time saved in favor of the railroad, each trip, - | <u>152</u> |
|---|------------|

TABLE No. 7.

*Synopsis of the six preceding Tables.*

TABLE 1.

|  | <i>Miles.</i> |
|--|---------------|
| Distance between Baltimore and Pittsburg, by the proposed Chesapeake and Ohio Canal, - - - | 390           |
| Distance from Baltimore to the Ohio river, by the proposed railroad, - - - - -             | 250           |
| Distance saved by the road, - - - - -  | <u>140</u>    |

TABLE 8.

|  |                        |
|--|------------------------|
| Smallest estimated cost of the proposed Chesapeake and Ohio Canal, - - - - - | \$12,000,000 00        |
| Highest estimated cost of the contemplated railroad, - - - - -               | 5,000,000 00           |
|  | <u>\$ 7,000,000 00</u> |

TABLE 3.

|   |                |
|---|----------------|
| Cost of transporting, for tolls only, on a ton of freight, from Pittsburg to Baltimore, upon the Chesapeake and Ohio Canal, - - - - - | \$ 5 85        |
| Cost of same transportation by the proposed railroad, - - - - -   | 2 50           |
| Tolls saved on each ton by the rail-road, - - - - -   | <u>\$ 3 35</u> |

TABLE 6.

|  | Hours.     |
|--|------------|
| Time employed in passing a boat from Baltimore to Pittsburg, by the Chesapeake and Ohio Canal, - - - | 214½       |
| Time to pass from Baltimore to the Ohio river, upon the proposed railroad, - - - - -                 | 62½        |
|  | <u>152</u> |

Extract of an Act to incorporate the Baltimore and Ohio Railroad Company.—Passed December session, 1826, by the Legislature of Maryland.

“SEC. 18. *And be it enacted*, That the said President and Directors, or a majority of them, shall have power to purchase, with the funds of said company, and place on any rail road constructed by them, under this act, all machines, wagons, vehicles, or carriages, of any description whatsoever, which they may deem necessary, or proper, for the purpose of transportation upon said road; and that they shall have power to charge for tolls upon (and the transportations of persons,) goods, produce, merchandise, or property of any kind whatsoever, transported by them along said railway, from the city of Baltimore to the Ohio river, any sum not exceeding the following rates: viz. On all goods, produce, merchandise, or property of any description whatsoever, transported by them from west to east, not exceeding one cent a ton, per mile, for toll, and three cents a ton, per mile, for transportation: On all goods, produce, merchandise, or property of any description whatsoever, transported by them from east to west, not exceeding three cents a ton, per mile, for tolls, and three cents a ton, per mile, for transportation; and for the transportation of passengers, not exceeding three cents per mile for each passenger. And it shall not be lawful for any other company, or any person or persons whatsoever, to travel upon, or use any of the roads of said company, or to transport persons, merchandise, produce,



or property, of any description whatsoever, along said roads, or any of them, without the license or permission of the President and Directors of said company; and that the said road or roads, with all their works, improvements, and profits, and all the machinery of transportation used on said road, are hereby vested in said company, incorporated by this act, and their successors forever; and the shares of the capital stock of said company shall be deemed and considered personal estate, and shall be exempt from the imposition of any tax or burthen by the States assenting to this law."

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Extract of an act, passed by the Legislature of Pennsylvania, on the 9th of February, 1826, incorporating the Chesapeake and Ohio Canal Company.

"SEC. 3. *And be it further enacted, by the authority aforesaid, That,* as a condition on which this act shall pass, no greater tolls shall be charged or paid on goods, commodities, and produce, entering and transported on the said Chesapeake and Ohio Canal, from such lateral canals, than are charged and paid on other goods, commodities, and produce, of the same kind, transported on the said Chesapeake and Ohio Canal: *And provided further,* That the aforesaid Chesapeake and Ohio Canal Company shall extend the Chesapeake and Ohio Canal to, and terminate the same at, the city of Pittsburgh."

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At a general meeting of the Stockholders of the Chesapeake and Ohio Canal Company, holden by adjournment, on Saturday, the 21st of June, 1828, it was

"*Resolved, That,* whenever the western section of the Chesapeake and Ohio Canal shall be constructed, the western termination thereof shall be at Pittsburg."

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Extract of an act, passed by the Legislature of Pennsylvania, on the 27th of February, 1828, "to authorize the Baltimore and Ohio Railroad Company to construct a railroad through Pennsylvania, in a direction from Baltimore to the Ohio river."

"SEC. 9. *And be it further enacted, by the authority aforesaid, That,* as a condition on which this act is granted, it shall be the duty of the said company, in case the railroad aforesaid, made in this commonwealth, in pursuance of this act, shall not terminate at the Ohio river, in the vicinity of Pittsburg, to construct a lateral railroad, simultaneously, on the same principles and plans of the main railroad, and which shall connect the city of Pittsburg with the main railroad."

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Extract of the Charter granted by the Commonwealth of Virginia to the Chesapeake and Ohio Canal Company, on the 27th Jan., 1824.

"SEC. 10. *And be it enacted,* That the President and Directors of the company, hereby created, shall have power, and it shall be their duty, to

ordain and establish a rate of tolls, to be paid upon boats, vessels, rafts, or other property, passing on the part of the canal so completed, and so, from time to time, as part or parts shall be completed, and until the eastern section thereof shall be finished up to the mouth of Savage river, or creek, and thereafter, until the entire canal shall have been finished, according to the true intent and meaning of this act. For the collection of which tolls, the President and Directors shall have power to establish so many toll-houses, and, at their pleasure, to appoint and remove so many collectors, and, at such places, as, from time to time, they may judge expedient; and the said President and Directors shall have full authority, subject to the direction and control of a majority, in interest, of the stockholders represented in any general meeting, to regulate and fix a tariff of tolls, not exceeding an average of *two cents per ton*, per mile; and so to adjust the said tolls, in relation to the capacity or burthen of the boats, and the dimensions of the rafts passing the locks of the said canal, as to promote economy of water and time in the navigation thereof."

"SEC. 14. *And be it enacted*, That the said canal, and the works to be erected thereon, in virtue of this act, when completed, shall forever thereafter be esteemed and taken to be navigable, as a public highway, free for the transportation of all goods, commodities, and produce, whatever, on payment of the tolls, to be imposed, as provided by this act; and no other toll or tax, whatever, for the use of the said canal, and works thereon erected, shall, at any time hereafter be imposed, but by consent of the said States, and of the United States."

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Extract from the proceedings of the Chesapeake and Ohio Canal Convention, held at the City of Washington, on the 6th of December, 1826.

"Among others who appeared as delegates to the said convention, were the following gentlemen:

*From Baltimore City.*

PRESENT:

|                     |  |                        |
|---------------------|--|------------------------|
| SOLOMON ETTING,     |  | ISAAC McKIM,           |
| BENJAMIN C. HOWARD, |  | JOS. W. PATTERSON, and |
| WILLIAM LORMAN,     |  | PHILIP E. THOMAS.      |

"The following gentlemen, also appointed delegates to the convention, by the City of Baltimore, were

ABSENT:

THOMAS ELLICOTT,  
ROGER B. TANAY, and  
LUKE TIERNAN.

"The Central Committee having made their report, recommending the adoption of certain resolutions, and the first of the said resolutions being under consideration, to wit:

"*Resolved*, That it will be expedient to obtain such an amendment of the charter of the Chesapeake and Ohio Canal Company, as shall authorize

the company to terminate, if they deem proper, the eastern section of the said canal, at, or near the town of Cumberland; and to extend, by any route therefrom, the western section of the said canal across the Alleghany to Pittsburg, or to substitute therefor a railway. And in the event that such a change shall be deemed expedient, in the route now prescribed by the charter, to defer the extension of a canal along the Potomac, from Cumberland to the mouth of Savage, and to reduce the dimensions thereof to a breadth less than that now required.

"Mr. Kennedy moved to strike out the words '*or to substitute therefor railway.*'"

"Mr. Key moved to add, 'or such other mode of transportation as they may find expedient.'"

"Mr. Kennedy's motion was negatived."

"The resolution was adopted, by adding to the resolution of the Central Committee, after the word 'railway,' or turnpike road on that portion of the route, or any part thereof, designated in the report of the Board of Internal Improvement, of the 23d of October, 1826, as the middle section, or on that part of the route by Savage, which corresponds therewith."

"The second resolution recommended by the Central Committee, in the following words, was then taken up:

"*Resolved*, That it will be expedient to address a memorial to the Congress of the United States, requesting a subscription to the stock of the said canal; and a like memorial to the Legislatures of Virginia, Maryland, and Pennsylvania; and that an application be made to the cities of Washington, Georgetown, and Alexandria, to aid, by a similar subscription, the stock of the said company."

"On motion by Mr. Etting, the word 'Baltimore' was added after the word 'Alexandria,' in the foregoing resolution."

"The foregoing resolutions were, it is believed, adopted *unanimously* by the Convention."

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Extract of the act of the Legislature of the State of Maryland, "incorporating the Chesapeake and Ohio Canal Company," passed at December session, 1826.

"SEC. 2. *And be it further enacted*, That the Chesapeake and Ohio Canal Company shall have power to terminate the eastern section of the said canal, at or near the town of Cumberland, on the river Potomac, and thence, to extend the western section thereof, in any direction that may be deemed expedient, by any other route, as well as that prescribed in the act aforesaid, towards Pittsburg, on the river Ohio; and, in extending the same in any direction across the dividing ridge which separates the eastern and western waters, to substitute, for a tunnel and numerous locks on such part of the route, inclined planes and railways, or any other artificial communication or roads; and, in the event that the western section of the Chesapeake and Ohio Canal shall leave the valley of the Potomac river at any point below the coal banks, at or near the mouth of Savage, on the North branch thereof, the company shall have the power, in like manner, to extend a branch from the main canal to the said coal banks, at or above the mouth of Savage, and to cause such branch to be constructed of such dimensions as

their views of their own and the public interest may warrant; and, for the construction of the same, shall have and enjoy the same rights, privileges, and immunities, under the same restraints and conditions, in all respects, as they are entitled to in relation to the main Chesapeake and Ohio Canal."

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Extract of the act of the Legislature of the State of Pennsylvania, "incorporating the Chesapeake and Ohio Canal Company."—Passed February 9, 1826.

"SEC. 4. *And be it further enacted*, That the said Chesapeake and Ohio Canal Company shall have full power and authority to alter and change the route of the western section of the said canal, so that the same may commence at the town of Cumberland, situated near the junction of Wills' creek and North Branch of the Potomac, and be continued from thence, by the valley of Wills' Creek and Castleman's River, to the Youghiogeny, and from thence to the city of Pittsburg: *Provided*, That the United States' Board of Internal Improvement, or a majority thereof, should deem and report that route to be the best."

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Extract of the act of the Legislature of the State of Virginia, "giving the assent of this State to an act, to amend the act, incorporating the Chesapeake and Ohio Canal Company, as passed by the State of Maryland."—Passed February 26, 1827.

After reciting at large the act of the State of Maryland—

"SEC. 1. *Be it therefore enacted by the General Assembly of this Commonwealth*, That the assent of this Legislature in and to "the amendment to the act incorporating the Chesapeake and Ohio Canal, as contained in the foregoing act of the General Assembly of Maryland, is hereby as fully and completely given, as if the said amendatory act had been passed by this present General Assembly."

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Extract of an act of the Congress of the United States, "to amend and explain an act, entitled 'An act confirming an act of the Legislature of Virginia, incorporating the Chesapeake and Ohio Canal Company,' and an act of the State of Maryland for the same purpose."—Approved May 23, 1828.

"SEC. 1. *Be it enacted by the Senate and House of Representatives, of the United States of America, in Congress assembled*, That the assent already given by the United States to the charter of the Chesapeake and Ohio Canal Company, by an act of Congress, entitled 'An act confirming an act of the Legislature of Virginia, entitled 'An act incorporating the Chesapeake and Ohio Canal Company; and an act of the State of Maryland, confirming the same,' shall not be impaired by any change of the route of the said canal, from or above the town of Cumberland, on the river Potomac, or the distribution thereof into two or more sections, at any time



hereafter, or any change in the dimensions of that part of the present eastern section, extending from Cumberland, or the mouth of Wills' Creek, to the mouth of Savage, at the base of the Alleghany, or any substitution which the interest of the Chesapeake and Ohio Canal Company may, in the opinion of the company, require to be made, of inclined planes, railways, or an artificial road, for a continued canal through the Alleghany mountain, in any route which may be by the company finally adopted therefor, between the town of Cumberland and the river Ohio."

Copy of a letter from C. F. Mercer, President of the Chesapeake and Ohio Canal Company, to General S. Bernard.

OFFICE OF THE CHESAPEAKE AND OHIO CANAL COMPANY,

WASHINGTON, *February 21, 1829.*

DEAR SIR: I beg leave to ask you if my recollection be correct of a conversation which I had with you and Captain Poussin, of the Corps of Engineers, more than two years ago, in which, adverting to the expected supply of water at the summit level of the Chesapeake and Ohio Canal, you suggested to me your opinion, in language to the following effect: "That if, in your report to the Department of War, you had sought to avoid too favorable a view of our enterprise, and that, if you had overrated the probable cost of the canal, you had as much underrated its supply of water, at the summit level, or proposed tunnel through the Alleghany."

From the importance, in the present state of our enterprise, of the fact to which this conversation related, I will thank you, in behalf of the Board of Directors of the Chesapeake and Ohio Canal Company, to let me know whether my statement of it be correct: and if not, or any different impression, in relation to its subject, has since arisen in your mind, what should be the extent of our confidence in the supply of water afforded at that summit, for locking, down the opposite vallies of the mountain to the Youghiogeny and Potomac rivers?

I have the honor to be, sir,

With high respect,

Your obedient servant,

C. F. MERCER,

*President of the Chesapeake and Ohio Canal Company.*

Gen. S. BERNARD,

*Member of the Board of Internal Improvement.*

Copy of a letter from General S. Bernard to C. F. Mercer, President of the Chesapeake and Ohio Canal Company.

WASHINGTON CITY, *February 21, 1829.*

SIR: In answer to your letter, I have the honor to desire you to reply to the Report of the Board of Internal Improvement, dated December 7th, 1826. In that report, it is distinctly stated that the minimum quantity of

water, yielded by Castleman's river, is sufficient to supply the summit level of the Chesapeake and Ohio Canal, as also its lockage for the maximum of trade.

Therefore, the Board have used, in their calculations, the elements of the smallest supply, compared to those of the greatest expense.

I have the honor to be, sir,

Very respectfully,

Your obedient servant,

BERNARD,  
*Brigadier General.*

To the Hon. C. F. MERCER,

*Pres't of the Ches. and Ohio Canal Co. Washington City.*



